

**Testimony of
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before a hearing of
the U.S. House of Representatives
Government Reform Committee,
Subcommittee on Federalism and the Census
On
*Brownfields and the Fifty States: Are State Incentive Programs
Capable of Solving America's Brownfields Problem?***

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Mr. Chairman, Members of the Subcommittee, thank you for inviting me to appear before you today. I am Douglas P. Scott, Director of the Illinois Environmental Protection Agency. Prior to becoming Director on July 1, I also worked on brownfields issues over a period of 20 years as Mayor of the City of Rockford, Illinois, as a state legislator, and Rockford City Attorney. In addition, prior to being appointed by Governor Rod Blagojevich to lead the Illinois EPA, I was the President of the Illinois Chapter of the National Brownfields Association. So, the topic that is the subject of your hearing today is one that is certainly near and dear to me, both personally and professionally.

Eight years ago the Illinois Environmental Protection Agency testified before a House Subcommittee on the subject of Brownfield sites and Superfund Reauthorization, reporting our initial successes, and recommending changes that would accelerate state progress in cleaning up Brownfield sites. Many of the changes to federal law that Illinois, and other states recommended in 1997 became law with the Congressional enactment of the Brownfields Site Revitalization Act, effective January 11, 2002.

I am here today to report to this Subcommittee on the continued successes that have been achieved in Illinois and to recommend other changes that Governor

Blagojevich and I strongly believe are needed to further accelerate Brownfield cleanups in our state.

ACCOMPLISHMENTS

The Illinois EPA administers six programs that address the clean up (remediation) of hazardous substances and petroleum. Through these programs we assure that private parties, municipalities and contractors investigate and clean up sites using procedures and objectives that assure that human health and the environment are protected.

Leaking Underground Storage Tanks (LUST) program: Since its inception in 1989, over 19,000 acres (or 11,245 sites) have been remediated, surpassing the program's objective of 14,000 acres by the year 2005. Over the past four years, the program has closed more sites than the number of new releases reported.

Site Remediation Program (SRP - Voluntary Cleanups): The Illinois EPA's site remediation program is one of the most mature voluntary cleanup programs in the nation (one of two that started in 1989). Almost 3,000 sites have been enrolled into the program, with 821 sites (or over 27 percent of all sites) enrolling since Governor Rod Blagojevich took office in 2002. Since 2002, the program has issued 527 No Further Remediation Letters (or 36 percent of all NFRs issued) designating successful completion of cleanup activities. In 2004, the voluntary cleanup program exceeded its objective of remediating 9,400 acres by 2005. Two of the sites that have gone through the program and are now being redeveloped were the recipients of the prestigious national Phoenix Award, recognizing excellence in brownfields redevelopment. Those sites, described in more

detail later in the testimony under “Success Stories/Case Studies” are the former Owens-Illinois glass container factory site in Alton, Illinois, which won a 2001 Phoenix Award and the Chicago Manufacturing Campus adjacent to Ford Motor Co.’s Torrance Avenue Assembly plant, which won a 2004 Phoenix Award.

Superfund (National Priorities List) Program: As the Superfund program finished its twenty-fourth year in 2004, construction had been completed at 22 of the 48 NPL sites in Illinois. This represents over 4,700 acres of the 2005 goal of 6,000 acres remediated (or 79 percent of the goal). Construction projects are ongoing at nine NPL sites. The Superfund program has a longstanding “enforcement first” policy to pursue viable, responsible parties to pay for or carry out cleanups. In Illinois, 78 percent of the NPL construction projects underway are led by Potentially Responsible Parties.

Federal Facilities Program – Sites addressed by the Federal Facilities Program include some of the largest properties undergoing remediation in Illinois. These sites offer tremendous potential for economic redevelopment and restoration of wildlife habitats. Since 1995, at least partial remediation has been completed at 23 federal sites (or 36,000 acres) in Illinois.

RCRA Corrective Action Program – This program directs owners and operators of hazardous waste management facilities in the cleanup of releases from regulated units, such as tanks, impoundments, landfills, and drum storage. Since 1996, over 9,000 acres have been remediated under the requirements of this program.

Response Actions Program – This program takes preventive or corrective remedial action, particularly where other cleanup programs may lack the ability to take short-term remedial actions. During 2003 and 2004, the program performed investigations and cleanups at old manufacturing plants, former waste oil recycling operations, contaminated agricultural facilities and other sites where surface water, groundwater, soil and air are contaminated with hazardous substances. By the end of 2004, over 1,000 acres were remediated by this program.

The program also concentrated its efforts on stabilizing 33 abandoned landfills as part of a five-year statewide public works program. At the end of 2004, 20 of these landfills had corrective action completed, three were undergoing construction, and 10 were in various stages of planning.

Technical Support

Brownfield Representatives – Illinois EPA Brownfields Representatives act as a liaison for communities to various Illinois EPA technical, financial, and regulatory staff. In 2003 and 2004, representatives assisted 33 municipalities on 67 brownfields projects.

Targeted Site Assessments – Illinois EPA offers limited site evaluations services to municipalities (free of charge) to determine the potential costs and to identify potential

environmental obstacles for brownfields redevelopment. To date, 47 targeted site assessments have been completed. Of these, 11 were conducted in 2003 and 2004.

Statewide Illinois Brownfields Conference – Each year, the Illinois EPA sponsors a statewide Illinois Brownfields Conference to promote the cleanup and reuse of brownfields. Attendees are informed about strategies for site selection and land acquisition, updated on regulatory changes affecting cleanups, presented new financing strategies and funding opportunities, and introduced to new remediation technologies. In addition to the statewide conferences, Illinois EPA has worked with individual communities to sponsor charrettes and other workshops to develop a vision for brownfields sites in a community that are particularly difficult to address but also hold great opportunity for the future.

By efficiently and effectively cleaning up land in Illinois we not only protect human health and the environment, our primary mission, but we make land available for reuse and redevelopment to the benefit of our communities and citizens. In 2000 the Illinois EPA made the sweeping commitment to remediate at least 80,000 acres of land by 2005. I am pleased to report that at the end of 2004, 96 percent of this cleanup goal had been completed.

Although all of Illinois EPA's cleanup programs are focused on making sites available for reuse, I would like to comment further on two Illinois programs that have had substantial impacts relative to brownfields. Both of these programs have seen a rapid acceleration of activity since Governor Blagojevich took office in January 2003.

Through its Municipal Brownfields Redevelopment Grant Program, Illinois EPA offers municipalities up to \$240,000 for investigation and cleanup of brownfields. Since

the program's inception in 1998, 114 municipalities have been awarded \$14.2 million. Demonstrating the acceleration of efforts, during 2003, \$600,000 was awarded to 11 municipalities while in 2004 over \$1.6 million was awarded to 22 municipalities. So far in 2005 we have awarded grants to 13 municipalities for almost \$850,000. Despite very difficult times for the State of Illinois budget, Governor Blagojevich has recognized the importance of investing in our communities by providing funding for this State brownfields financial assistance program. The grants have been issued under Governor Blagojevich's *Opportunity Returns* regional economic development initiative, which links local leaders and developers with coordinated assistance from state agencies. The individual regional *Opportunity Returns* plans also place a strong emphasis on brownfields sites. Establishing strong partnerships with municipalities---both individually and on a regional basis---- has been a key to the success of many of our Illinois sites, especially when the risks and challenges may appear too great for private developers and lenders.

In addition to the state grants over the past seven years, coupled with technical advice and cleanup oversight to the municipalities, has allowed many of these projects to move forward to final cleanup phase. However, some municipalities do not have the ability to fully finance cleanups without additional assistance. To address that issue, Governor Blagojevich and Illinois EPA launched an innovative initiative – the first of its kind in the nation - to develop a non-capitalized revolving loan program for municipalities to use for cleanup and demolition. As a result of negotiations with U.S. EPA, IEPA is using a \$3.5 million federal grant for this purpose, after earlier finding a reluctance of either developers or municipalities to apply for this money on a traditional

loan basis. The Illinois EPA Brownfields Revolving Loan program gives the municipalities up to 15 years to repay what they can from their proceeds resulting from redevelopment of the property and also gives the municipality first priority on using the money it repays for loans on other eligible brownfields projects in the community.

Since this approach began in 2004, the Illinois EPA has authorized five loans for a total of just under \$2 million, with a cap of \$425,000 per loan, from the Brownfields Revolving Loan Program and anticipates obligating the balance of the full \$3.5 million by early next year.

Illinois has also strongly encouraged municipalities in the same region to work together to pool resources and share creative ideas. For example, in the Illinois Quad-Cities area, Illinois EPA has worked not only with individual municipalities but regional economic development groups to provide nearly \$900,000 in state grants and \$455,000 in leveraged U.S. EPA funds, as well as extensive technical assistance for brownfields sites in four adjacent communities. The IEPA is also currently working with the South Suburban Mayors and Managers Association and five individual municipalities to build a regional partnership for brownfields redevelopment in the South Cook County area near Chicago. So far, the Illinois EPA has provided these communities more than \$1.8 million in brownfields grant funds, which in turn was leveraged to generate an additional \$2 million in brownfields cleanup funds for the area.

Illinois EPA also assists communities in making maximum use of all available resources and some of our municipalities have moved difficult projects along by obtaining state investigation grants, federal brownfields grants and federal USTFIELD grants.

I believe that the Illinois EPA's successes have also been achieved because five key policies have been put into place. These policies have been continuously refined and improved as the State's cleanup programs have moved forward.

1. Illinois EPA established a comprehensive, unified, risk-based methodology for determining remediation objectives that is based on the planned reuse of the property, rather than a one-size-fits all cookie cutter approach. In Illinois we call this the Tiered Approach to Corrective Action Objectives, or TACO, and it has proven to be an impetus to spur more cleanups at lower cost while still protecting public health and the environment.
2. Reduced liability concerns of land owners and developers through No Further Remediation (NFR) Letters and a Memorandum of Agreement between the State and U.S. EPA that states that U.S. EPA will not, subject to narrow limitations, take enforcement action under Superfund against firms that have received an NFR letter.
3. Established a voluntary cleanup program that makes timely and effective decisions under a well-understood set of procedures.
4. Provided web based access to key site environmental data about sites in cleanup programs at www.epa.state.il.us.
5. Established strong and growing partnerships with municipalities, EPA and other federal agencies, Illinois departments, other States, trade organizations, industrial and commercial owners, and land developers.

ILLINOIS BROWNFIELDS SUCCESS STORIES AND CASE STUDIES:

Alton Center Business Park (Owens-Illinois site)

Location: Alton

Area: 177 acres

Working with a developer specializing in large brownfields properties, Clark Properties, Inc. of St. Louis, this site of the former Owens-Illinois glass container factory, once the largest of its kind in the world and employing more than 5,000, went from years of abandonment and extensive contamination from more than a century of operations, to a successful environmental cleanup, with assistance and oversight from the Illinois EPA's Site Remediation Program. The site currently houses a business park and tenants have created more than 400 new jobs. Long-term redevelopment is expected to contribute more than 1,000 jobs and \$80 million in private investment to the local economy. This site won the City of Alton and Clark Properties the prestigious national Phoenix Award at the National Brownfields Conference in 2001.

Chicago Manufacturing Campus LLC

Location: Southeast Chicago

Area: 115.6 acres

This site is in an industrial corridor on the south side of Chicago between Wolf Lake and the Calumet River. Originally the site and the surrounding areas were wetlands. In 1941, Republic Steel purchased the site and began filling the wetlands with steel processing slag. CenterPoint Properties Trust acquired the site with the intention of redeveloping it

into an industrial manufacturing campus containing warehouses and support businesses for the expansion of Ford Motor Company.

For the purposes of evaluation and cleanup, CenterPoint divided the site into eight parcels and enrolled them between 2003 and 2004 into the Site Remediation Program.

Remediation of the various parcels has included the excavation and removal of hazardous and special wastes and the reliance on engineered barriers and institutional controls to minimize risks to future users of the site. Between 2003 and 2005, the Illinois EPA issued No Further Remediation Letters for the eight parcels for a total of 115.6 acres. The site is restricted to industrial/commercial land use.

The site is particularly attractive for redevelopment because it is located in Enterprise and Empowerment Zones, is a planned development with all new infrastructure and has ready access to I-94. Businesses locating on the campus include: Tower Automotive, ZF Lemforder, Brose Chicago, Inc., Lear Operations Corporation, Summit Polymers, Inc., S-Y Systems, VC Regional Assembly & Manufacturing LLC, and Ford Motor Company. CenterPoint was recognized with a Phoenix Award for this site during the 2004 National Brownfields Conference.

Byron Salvage Yard

Location: Ogle County

Area: 140 acres

The Byron Salvage Yard and the adjacent Dirk's Farm site located near the City of Byron accepted industrial waste including electroplating wastes and other materials (oil sludge, paint sludge, cutting wheels, solvents, and scrap metal) during the 1960s and early 1970s. On-site disposal of wastes included impoundments, dumping on the ground, spraying on nearby dirt roads for dust control, or burying in drums (which later corroded and leaked).

A series of regulatory actions culminated in the Byron Salvage Yard being placed on the National Priorities List (i.e., Superfund) in 1982. In 1984, the U.S. EPA constructed a fence to prohibit site access and provided bottled water to local citizens. In 1985 and 1986, the Illinois EPA disposed of approximately 11,000 drums and excavated, disposed or treated roughly 3,000 cubic yards of highly contaminated soils. In 1986, the Illinois EPA installed carbon filtration systems in affected homes to replace the bottled water supplied previously by U.S. EPA. In 1988, Illinois EPA connected approximately 180 homes to the Byron municipal water supply. In 1998, U.S. EPA extended municipal water services to 27 additional homes.

Investigations at the Byron Salvage Yard indicated that similar waste disposal practices occurred at the adjacent Dirk's Farm site. In 2002, excavation and off-site disposal of contaminated soil from the site was completed and long-term groundwater monitoring was initiated.

Construction was completed at both sites in August 2003. A five-year review is scheduled in 2008 to determine if additional groundwater remediation is necessary.

Savanna Army Depot

Location: Carroll & JoDaviess counties

Area: 13,062 acres

The Savanna Army Depot was founded in 1917 for ammunition manufacturing, testing and storage. In 1995, the Depot was placed on the U.S. Army's base closure list and officially closed in 2000. The U.S. Army is pursuing the cleanup of metals, pesticides, explosives, lead-based paint chips, and organic chemicals to allow increased management and public recreational use. To date, remedial actions have included excavation and disposal of contaminated soils, incineration, and stabilization and disposal of lead contaminated soils. The cleanup is estimated to cost \$350 million.

The site contains 7,000 acres of uplands and 5,500 of bottomlands. At least 47 Illinois Endangered and Threatened animal and plant species have been observed at the Depot. The U.S. Fish & Wildlife Service is scheduled to receive over 9,000 acres to become the Lost Mound Unit of the Upper Mississippi River National Wildlife and Fish Refuge. In 2003, over 3,000 acres were transferred to the U.S. Fish & Wildlife Service. The remaining acreage will be transferred in the future as parcels are certified clean from environmental contaminants.

In 2004, over 500 acres were approved for transfer. Approximately 370 acres were transferred to the JoCarroll Depot Local Redevelopment Authority for industrial and

commercial ventures. The remaining 177 acres were transferred to the U.S. Army Corps of Engineers for recreational purposes and access to the levee.

BP Main Plant

Location: Wood River

Area: 600 acres

Constructed in 1907 and closed in 1981, the BP Refinery in Wood River was considered an unusable industrial brownfield. However, a partnership that includes BP, Triad Industries, RLJ L.L.C., the City of Wood River, U.S. EPA, and the Illinois EPA have undertaken the redevelopment of this site. In 2001, the project was selected as one of five RCRA Brownfield Prevention pilot projects to showcase the flexibility of the RCRA corrective action program. BP has invested more than \$70 million for remediation. No federal or state money has been involved in the cleanup.

In 2002, a groundbreaking ceremony was held for phase I of the redevelopment project including the American Commons, a six-acre business and retail park and the 30-acre Deer Park Wildlife Habitat. The Deer Park includes an observatory and a walking trail.

To date, the Illinois EPA has issued No Further Action determinations for five areas of the site totaling 156 acres.

Special Brownfields LUST Fund Projects

Locations: Streator, Rock Island, Monticello, Belleville

Area: 5 acres (total)

The Illinois EPA administers the U.S. EPA Special Brownfields LUST Fund to help communities address contamination associated with leaking underground storage tanks.

In 2004, the Illinois EPA awarded \$100,000 to four communities (Streator, Rock Island, Monticello, and Belleville) to assist in the removal of nine underground storage tanks.

- The City of Streator was awarded \$45,000 for the removal of four underground storage tanks from a former gasoline station next to the Streator Public Library. A portion of the site will become a commercial building and the remainder will become a parking lot serving both the library and the municipal building complex.
- The City of Rock Island received \$10,000 for the removal of four cone-shaped underground storage tanks located at former drycleaner site. The building has since been rehabilitated and recently opened as a coffeehouse/café.
- The City of Monticello received \$17,500 for the removal of a 12,000-gallon underground storage tank at the former Pepsin Syrup Company site in a west side downtown area. The site has considerable appeal to commercial developers because of its location near downtown Monticello. Monticello has also received the maximum \$240,000 in state Municipal Brownfield Redevelopment Grant funds and \$425,000 from the Brownfields Revolving Loan Program for cleanup and demolition at the dilapidated century-old pharmaceutical plant abandoned for nearly two decades.

- The City of Belleville received \$25,800 to remove a 7,500-gallon underground storage tank located at the RUST Company site. Community leaders hope to convert the area into a business corridor.

RECOMMENDATIONS

Under the leadership of Governor Blagojevich, Illinois has expanded existing programs and developed new initiatives to clean-up and return brownfields to productive use. These efforts have accomplished far more in recent years than could have been expected, but the challenges and the inventory of sites remains large. The successes have occurred because Governor Blagojevich and other state and local leaders in communities throughout Illinois had the vision, the determination, and the persistence to make brownfields cleanup and reuse a reality. Much more, however, needs to be done, and more help is needed from the federal government and Congress to support these efforts. In my view there are three areas where support is critical:

First, I support the principles set forth in the proposed Brownfields Redevelopment Enhancement Act (H.R. 280) that authorize the Secretary of Housing and Urban Development (HUD) to make grants (without certain otherwise-required loan guarantees) to municipalities to assist in the environmental cleanup and economic development of brownfield sites. These grants would make brownfields - related environmental cleanup and economic development activities eligible for community development block grant (CDBG) assistance. By de-linking grants for brownfields development from section 108 community development loan guarantees and the related

pledge of community development block grant funds, as this bill proposes, more communities will have access to funding for redevelopment of brownfield sites.

Second, I support the continued funding of States and municipalities through the mechanisms of the Brownfields Revitalization Act of 2002. As both an agency director and a city mayor I have seen these funds catalyze brownfield cleanup and reuse. It is essential that this funding be provided at authorized levels, at the minimum, and preferably at increased levels. Demand for these cleanup funds far outstrips availability in Illinois and I am sure that is the case in most other states. I believe strongly this funding will more than pay for itself in the long run by reducing sprawl and its accompanied transportation and other infrastructure costs. In addition to grants, innovative and flexible leveraged loan programs, such as the Illinois Brownfields Revolving Loan fund, which I described earlier, should be encouraged. To support this revolving loan fund, Illinois is in great need of additional federal seed money to support requests for assistance from communities around our state.

Third, I support the need for a strong federal Superfund program to address the most egregious sites that are beyond the resources of owners, communities or States to address. Federal Superfund will continue to be needed as a critical backstop for handling the major contamination typical of sites on the National Priorities List. A strong federal commitment to Superfund is needed because no community can solve the problems of cleaning up heavily contaminated NPL sites on their own. As Mayor of Rockford I had to contend with a Superfund site extending over much of my city. Great progress has been made addressing this site; however, without a properly funded Superfund program, similar sites will lay dormant and continue to adversely affect the health and quality of

life for the citizens of those communities. The steady and substantial erosion of funding to states to implement their portions of Superfund needs to be reversed and I urge the Congress to tackle this difficult issue sooner rather than later as the inventory of unaddressed Superfund sites mounts in Illinois and across the nation.

I believe strongly that providing greater resources to clean up and redevelop our brownfields sites will pay off in healthier and more stable communities. Under Governor Blagojevich's leadership we have seen that happen across Illinois at thousands of sites but we need more help from the federal government and the Congress to address the thousands more that need a little extra help to move forward.

I also believe it is appropriate for Congress to further evaluate and pass legislation providing some form of tax credits for private entities that are remediating brownfields. Last year, H.R. 4480 was introduced in part for that purpose and hearings were held to consider its principles. Although H.R. 4480 did not pass, I commend Chairman Turner on his efforts to address through legislation some of the important deficiencies that are inhibiting brownfields cleanup and reuse. These impediments were identified in the General Accounting Office Report *"Brownfields Redevelopment: Stakeholders Cite Additional Measures That Could Complement EPA's Efforts to Clean Up and Redevelop Property."* I believe it would be appropriate for Congress to further evaluate the testimony gathered at the H.R. 4480 hearings and move forward on a bill that both addresses the principles and implementation concerns.

On behalf of Governor Rod Blagojevich and Illinois EPA, thank you for the opportunity to provide testimony today on this important subject.